

From: Dale Hample
To: Microsoft ATR
Date: 1/25/02 6:09pm
Subject: Tunney Act comment re: Microsoft

I am a professor of Communication at Western Illinois University. I have been using computers since 1967, and desktop computers since 1984. I write from the viewpoint of an informed user and concerned citizen. I have no connection with any part of the computer industry, except as a consumer.

As I understand the legal status of the case to this point, Microsoft has been found guilty of establishing its monopoly through illegal means. As a citizen, I am primarily concerned that no individuals or corporation be permitted to retain "profits" obtained illegally. Convicted kidnappers don't get to keep the ransom, after all. The growth of Microsoft has occurred in good part because of the various predatory business practices they follow, and I hope that the court will take action to undo the profit. It is unreasonable to expect the court to be able to compensate the companies that went out of business, their employees who lost jobs (or who failed in their hopes for entrepreneurial success), or the users who found themselves trying to use software that wasn't supported because the manufacturer was bankrupt.

If you can find a remedy to undo the damage, I hope you will. But even if you cannot, you must destroy the profit. Part of your responsibility is to ensure that no one can enrich themselves by breaking the law, and then just waiting out the length of time that it takes to move a substantial anti-trust case through the court system.

The proposed remedy will not work, in my view. The finding of fact clearly establishes a presumption that Microsoft will certainly try to exploit the inevitable ambiguities in your ruling - inevitable because the computer industry, its products, its services, its very vocabulary, change at a very rapid rate. More, the previous court findings justify the assumption that Microsoft will actually try to break the law. I am certain that the court is not so naive as to suppose that Microsoft lacked high quality legal advice throughout its monopolistic ascent. The same lawyers who told them that they could break the law for years before anyone could successfully press a case will tell them the same thing again, within hours of your ruling.

I believe that Microsoft should be broken up, and each of the resulting parts should be placed in such financial straits that they will have difficulty competing. To permit even parts of the present Microsoft to inherit the illegal advantages of monopoly would justify the arrogant contempt for law displayed in Microsoft's actions to date.

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